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In re Application of HALSETH et al
U.S. Application No.: 09/786,398
Int. Application No.: PCT/US99/19763
Int. Filing Date: 28 August 1999
Priority Date: 28 August 1998
Attorney Docket No.: 1032-P01698US1
For: FLUID INFUSION DEVICE WITH
RETRACTABLE NEEDLE

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is in response to applicants' "Petition to Revive Unintentionally Abandoned Application Pursuant to 37 C.F.R. §1.137" filed 02 March 2001.

BACKGROUND

On 28 August 1999, applicants filed international application PCT/US99/19763, which claimed priority of an earlier United States application filed 28 August 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 09 March 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 23 March 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2001.

International application PCT/US99/19763 became abandoned as to the United States at midnight on 28 February 2001 for failure to pay the basic national fee.

On 02 March 2001, applicants filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing the requirements to commence the national stage was unintentional."

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicants have provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicants have provided the required petition fee.


With regard to item (3), the petition states, "The entire delay in filing the requirements to commence the national stage was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.


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